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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,318	04/12/2002	Gilles Basson	P21854	5871

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EXAMINER

LINDSEY, RODNEY M

ART UNIT PAPER NUMBER

3765

DATE MAILED: 10/21/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/031,318

Applicant(s)

BASSON ET AL.

Examiner

Rodney M. Lindsey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-27, 29-31 and 35-52 is/are rejected.
- 7) ☒ Claim(s) 28 and 32-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 13 June 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “30” has been used to designate both an opening and a hooking mechanism.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

## **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as “Replacement Sheet” and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as “amended.” If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor’s name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as “Annotated Marked-up Drawings” and accompany the replacement sheets.

### **Timing of Corrections**

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Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

***Specification***

2. The disclosure is objected to because of the following informalities: the dual use of the reference character "30" to represent both an opening and a hooking mechanism is improper.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 is confusing as setting forth the locking device as connected to the hooking and locking piece while claim 26 sets forth the hooking and locking piece as comprising the locking device.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 13, 15-17, 24, 26, 27, 29-31, 37, 43 and 50-52 are rejected under 35

U.S.C. 102(b) as being anticipated by Baudou et al.

Baudou et al. show a main outer shell 10, a first accessory and a second accessory selected from the list at column 1, lines 50-57 and a connecting and locking system 101, 102, 103. With respect to claim 15 note the support structure 20. With respect to claim 16 note the night vision binoculars at column 1, line 56. With respect to claim 17 note such functioning of the interchangeable equipment of Baudou et al. With respect to claim 24 note the hooking and locking pieces at 30. With respect to claim 26 note lock device 31. With respect to claim 27 note elastic system 34. With respect to claim 29 note the slot 47. With respect to claim 30 note the journal for pin 32. With respect to claim 31 note the projections at 21, 22. With respect to claims 37 and 50 note the screen per column 1, line 57. With respect to claim 43 note the support structure at 20 and the screen per column 1, line 57. With respect to claim 51 note the first support structure 20 for the night vision device, the second support structure 20 for the protective screen, the protective screen per column 1, line 57 and the connecting and locking system at 101, 102, 103. With respect to claim 52 note shell 10, support structure 20 for the night vision device and the protective screen per column 1, line 57 and the connecting and locking system at 101, 102, 103.

7. Claims 13 and 15-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Beautz.

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Note outer shell 10, first and second accessories 30 (see multiple outer devices at paragraph [0001]) and connecting and locking system 14, 40. With respect to claims 15 and 16 the outer helmet 30 is equivalent to the support structure claimed (see para. [0002]). With respect to claim 17 note that the accessories function as claimed. With respect to claims 18-24 note the hooking pins at 14 and the hooking and locking pieces at 34.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 14, 38-42 and 44-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baudou et al. in view of Olt et al.

Baudou et al. do not teach an accessory comprising a clear visor, a tinted visor and a support structure or a pivotal ocular protective screen. Olt et al. teach old to combine a clear visor and a tinted visor 46, 48 with a support structure 22, and an ocular protective screen 46 or 48. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the helmet of Baudou et al. by providing the support structure 20 with a clear visor and a tinted visor in the manner of Olt et al. to achieve the advantage of blocking wind and/or particular wavelengths of light. With respect to claims 40-42 note the carriage 66 in the central slide 36, 38 as taught by Olt et al. With respect to claims 44 and 46 note the space between screen 46, 48 and support structure 22 as taught by Olt et al. With respect to claim 45 the releasable mounting taught by Baudou et al. constitutes movable mounting as claimed. With respect to claims 47 and

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49 note the opening 38 for the support structure 22 as taught by Olt et al. With respect to claim 48 note the guiding carriage 66 as taught by Olt et al.

10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baudou et al.

It would have been considered an obvious matter of choice and design to one of ordinary skill in the art at the time of the invention to form the bar 32 of metal since all that would have been required is that the bar be of a suitable material to permit pivoting of member 31.

11. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baudou et al. in view of Docking et al.

Baudou et al. do not teach an accessory made of a composite material. Docking et al. teach old the use of plastic for an accessory (see column 4, lines 5,6). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the accessory of Baudou et al. such that it comprise a composite since such plastics are old and well known light weight materials.

12. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baudou et al. in view of Docking et al. as applied to claim 35 above, and further in view of Olt et al.

Baudou et al. do not teach the triangular shape of the accessory as claimed. Olt et al. teach old such a shape for the accessory component 22 extending from its lower edge to about 70 in Figure 1 with notches or cut-outs in the triangle. It would have been obvious to form the support structure of the accessory of Baudou et al. triangular in the manner of Olt et al. since one of ordinary skill in the art at the time of the invention would readily have recognized the desirability of such a shape in minimizing the amount of material used to form the accessory.

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***Allowable Subject Matter***

13. Claims 28 and 32-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

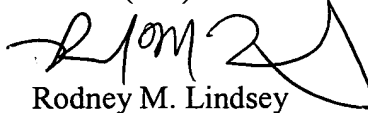
***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the helmet accessories of Choi et al. and Bataille et al., the visor support structures of Polednak et al., Noble, Verona et al. and Brindle and the visors of Aileo and British patent to Ellis et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (703) 305-7818. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9301.

  
Rodney M. Lindsey  
Primary Examiner  
Art Unit 3765

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